therein.

REMARKS

Claims 28, 32, 39, and 44 are currently being amended to further particularly point out and distinctly claim the subject matter which Applicant regards as the inventive subject matter, and to fix unintentional typographical errors. These amendments do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, entry of the amendments prior to examination is respectfully requested.

Interview

Applicant kindly thanks the Examiner for interviewing this case on June 20, 2006. As discussed during the interview, Applicant has amended the claims to be directed towards a catalyst system comprising a product obtained by contacting a metallocene complex, an organometallic aluminum compound, and water. In particular, Applicant has amended the claims such that Ar in the organometallic aluminum compound cannot be an alkylaryl or an unsubstituted phenyl. Accordingly, Applicant believes the claims are now patentably distinct over the cited references, and are in condition for allowance.

1. Rejection of Claims 28-50 Under 35 U.S.C. §112, 2nd Paragraph

The Office Action states claims 28-50 are rejected under 35 U.S.C. §112, second paragraph, for being indefinite. In particular,

the Office Action states,

> In at least claims 1, 43, 44, 50, the selective formats of various groups, "selected from A, B, C, . . ., and X", are improper in that it is not clear whether the individual members in the group are selected in alternatives only or in both alternatives and combinations. In general, when the members of in the group are individually chosen as alternatives, the format, "selected from A, B,. . ., or X" or "selected from the group consisting of A, B,. . ., and X", should be used; and when the members in the group are chosen both in alternatives and combinations, the format "selected from the group consisting of A, B,. . ., X, and mixtures thereof" should be used. See MPEP 2173.05(h).
>
> Applicants are requested to amend the selective formats of the instant claims according to the above guidance.

RESPONSE

Applicant has amended claims 28, 32, 39, and 44 to further particularly point out and further distinctly claim the subject matter which Applicant regards as the inventive subject matter, and to obviate the Examiner's rejection. Accordingly, claims 28 and 44 are believed to be definite.

With respect to claims 43 and 50, Applicant traverses the Examiner's contention these claims are not definite. Applicant contends that one of ordinary skill in the art would appreciate the metes and bounds of claims 43 and 50 when taken together with Applicant's specification.

Accordingly, Applicant respectfully requests the Examiner to withdraw this rejection, and allow claims 28-50.

2. Rejection of Claims 28-50 Under 35 U.S.C. §103(a)

The Office Action states that claims 28-50 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,136,932 and U.S. Patent 5,849,653, collectively referred to as "Dall'Occo, et al." herein. In particular, the Office Action states,

> Dall'Occo's teaching is relied upon as shown above.
>
> Therefore, it would have been obvious to a skilled artisan at the time the invention was made to employ Dall'Occo's teaching to provide a catalyst composition comprising a metallocene catalyst and a cocatalyst such as tris(2-phenylpropyl)aluminum and bis(2-phenylpropyl)aluminum hydride because such is within the generic disclosure of the reference and all of the embodiments of the reference are expected to work and in the absence of any showing of criticality and unexpected results.

RESPONSE

Applicant has amended claims 28, 32, 39, and 44 to further particularly point out and further distinctly claim the subject matter which Applicant regards as the inventive subject matter. Accordingly, Applicant believes claims 28-50 are patentable over the cited references.

Additionally, Applicant traverses the use of U.S. Patent 6,136,932 as a reference under 35 U.S.C. 103(a).

The current Office Action states "Claims 28-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dall'Occo et al. (US 6,136,932 and US 5,849,653 respectively)."

U.S. Patent 6,136,932 has an issue date of October 24, 2000, and a filing date of October 21, 1998. Applicant filed the present

application as a PCT international application on September 15, 2000, and satisfied all of the particular filing requirements. Accordingly, Applicant's effective U.S. filing date is the filing date of the international application (i.e. September 15, 2000).

Additionally, the currently claimed invention and the subject matter contained in U.S. Patent 6,136,932 are commonly owned, and Applicant was subjected to an obligation of assignment to the owner of U.S. Patent 6,136,932 at the time the claimed invention was made. Accordingly, Applicant respectfully believes U.S. Patent 6,136,932 is not a reference pursuant to 35 U.S.C. 103(c).

In light of the above, claims 28-50 are therefore believed to be patentable over Dall'Occo, et al. Accordingly, reconsideration and withdrawal of the rejection is requested.

3. Double Patenting Rejection of Claims 28-50

The Office Action states,

> Claims 28-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 and 11-17 of U.S. Patent No. 5,849,653. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the catalyst compositions overlaps with that of the claims of the patent. In claim 11 of the Patent, component (A) of the Patent overlaps with component (A) of the instant claims when A of formula (I) of the instant claims has the same meaning as Cp, and component (B) of the Patent overlaps with component (B) of the instant claims when w=3 or 2 and z=0 or 1 respectively and (CH_2-$CR^4R^5R^6$) is (CH_2-$CHCH_3Ph$)(2-phenylpropyl of col. 5, lines 23-24) in the formula of (II) of the Patent. For example, the tris(2-phenylpropyl)aluminum and bis(2-phenylpropyl)aluminum hydride meet the limitations of component (B) of the instant claims.

Claims 28-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 9 of U.S. Patent No. 6,136,932. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the catalyst composition of the instant claims overlaps with those of the claims of the patent for the similar analysis as shown above.

RESPONSE

In light of the above arguments, which are incorporated herein in their entirety, Applicant believes claims 28-50 are patentably distinct from the claims of U.S. Patent 5,849,653 and U.S. Patent 6,136,932. Accordingly, reconsideration and withdrawal of the rejection is requested.

CONCLUSION

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the references of record. The Examiner is therefore respectfully requested to reconsider and withdraw all rejections and allow all pending claims 28-50. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned practioner if she has any questions or comments.

Respectfully submitted,

By: _____

Jarrod N. Raphael
Registration No. 55,566
Customer No. 34872

Date: June 29, 2006
Basell USA Inc.
912 Appleton Road
Elkton, MD 21921
Telephone No.: 410-996-1750
Fax No.: 410-996-1560

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on June 29, 2006.

_____
Signature

June 29, 2006
Date